

New Jersey Department of Environmental Protection
New Jersey Administrative Code
Title 7, Chapter 1E

Subchapter 4

Plans

Adopted: August 30, 2001
Effective: September 29, 2001

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7:1E-4.1 Scope

This subchapter prescribes the rules of the Department for information to be submitted concerning major facilities. The following rules shall govern the preparation and submission of discharge prevention, containment and countermeasure plans, and discharge cleanup and removal plans.

7:1E-4.2 Discharge prevention, containment and countermeasure plans

(a) The owner or operator of a major facility shall prepare a DPCC plan demonstrating compliance with the standards in N.J.A.C. 7:1E-2, and shall appoint a response coordinator for each site who shall be responsible for insuring compliance with the DPCC plan, the Act, and this chapter. The response coordinator shall be responsible for submission of all reports required by this chapter to the Department.

(b) The DPCC plan shall contain the following general information:

1. The name, telephone number and location of the facility including street and mailing address, county, municipality, and tax lot and block number;
2. The name(s), telephone number(s) and business address(es) of the owner or operator of the facility;
3. The name and business address of the owner's or operator's registered agent, if applicable;
4. A general site plan, which accurately reflects the current facility, in the format prescribed in N.J.A.C. 7:1E-4.10, showing the location of storage tanks, drum storage areas, process buildings, loading or unloading areas, marine transfer areas, and any other structures in or on which hazardous substances are stored or handled, or which are used for the prevention of discharges, and all facility fencing and gates;
5. A drainage and land use map, in the format prescribed in N.J.A.C. 7:1E-4.10, which accurately reflects the current facility and the surrounding area, including the direction of surface water runoff from the site, the location of all major sewers, storm sewers and all watercourses into which the surface water runoff from the facility drains and the location of all supply or monitoring wells;
6. Topographical maps, in the format prescribed in N.J.A.C. 7:1E-4.10, covering all surrounding area which could be affected by a discharge from the facility, including environmentally sensitive areas; and
7. The anticipated date on which the facility will become operational, if the facility is a new one.

(c) If the facility has experienced two or more discharge events within the previous 12 months, the DPCC plan shall include a description of each such event, corrective action taken, and plans for preventing recurrences.

(d) The DPCC plan shall include, at a minimum, the following technical information, keyed to the following paragraphs, in sequential order:

1. A description of all storage areas, addressing all standards under N.J.A.C. 7:1E-2.2, including, but not limited to, overfill protection measures, the schedule for integrity testing and internal visual inspections, including at a minimum the date(s) of the last test(s) and inspection(s) and the date(s) of the next test(s) and inspection(s), and the schedule or criteria for scheduling maintenance or reconstruction. This description must also include the size and contents of storage tanks, drum storage areas, and all other storage areas;
2. A description of any tank car or tank truck loading/unloading area, addressing all standards under N.J.A.C. 7:1E-2.3, and including the size of the largest compartment in any tank car or

tank truck utilizing the area and the hazardous substances loaded or unloaded;

3. A description of the marking of in-facility pipes, a description of any maintenance and repair program for buried pipes, and procedures for minimizing the chance of a vehicular collision with overhead pipes, pursuant to N.J.A.C. 7:1E-2.4;

4. A description of all secondary containment or diversion systems, including their capacity and materials of construction and including those utilized for process areas, pursuant to N.J.A.C. 7:1E-2.6. This description can be included with the information required pursuant to (d)1 and 2 above, as appropriate;

5. A description of marine transfer areas, including materials transferred, booming operations pursuant to N.J.A.C. 7:1E-2.7, and the fixed and portable lighting in use in marine transfer areas, pursuant to N.J.A.C. 7:1E-2.8;

6. A description of any flood hazard areas within the facility's boundaries, and any measures implemented to protect hazardous substances from flood waters, pursuant to N.J.A.C. 7:1E-2.9;

7. A description of all leak detection or monitoring procedures, pursuant to N.J.A.C. 7:1E-2.10;

8. An outline of the housekeeping and maintenance program, pursuant to N.J.A.C. 7:1E-2.11;

9. An outline of the personnel training program and procedures for instructing of contractors, pursuant to N.J.A.C. 7:1E-2.12;

10. A description of the physical security measures at the facility, pursuant to N.J.A.C. 7:1E-2.13;

11. A catalog list of all standard operating procedures that have been written pursuant to N.J.A.C. 7:1E-2.14; and

12. A description of the recordkeeping system employed by the facility, pursuant to N.J.A.C. 7:1E-2.15.

(e) The DPCC plan shall include a schedule, to be approved by the Department, for upgrading equipment or portions of the facility to meet the requirements of N.J.A.C. 7:1E-2, excluding N.J.A.C. 7:1E-2.2(a)4, 5, 6 and 7.

(f) The owner or operator shall maintain and make available for Department review, at either the facility or the Department's offices at the discretion of the Department, the following updated

documentation including a catalog list of all such documents showing title, identification number and date of issue:

1. Facility inventory of hazardous substances , as defined in N.J.A.C. 7:1E-1.6;
2. Updated process flow and piping and instrumentation diagrams;
3. Standard operating procedures;
4. Facility emergency response plan;
5. Job classifications and job descriptions; and
6. Housekeeping and maintenance program procedures and records.

7:1E-4.3 Discharge cleanup and removal plan

(a) The owner or operator of a major facility shall prepare and implement a DCR plan containing, at a minimum, the following information:

1. The name, title and 24-hour business telephone number of the facility's response coordinator or other person authorized to hire contractors and release funds for discharge response, containment, cleanup and removal. A response coordinator or alternate shall be available at all times;
2. The chain of command for an emergency response action;
3. Notification procedures, pursuant to N.J.A.C. 7:1E-5;
4. Provisions for annual emergency response drills to determine the currency and adequacy of, and personnel familiarity with, the emergency response action plan. This drill shall be critiqued in writing and that critique retained pursuant to the recordkeeping requirements at N.J.A.C. 7:1E-2.15. The drill shall be based on different scenarios from year to year in order to address all anticipated emergency response scenarios at the facility. When possible, this annual drill can be combined with other required emergency response drills;
5. A list of types and quantities of containment and removal equipment and materials to which the facility has access through ownership, contract or others means, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, and communications devices, and indicating if access is through ownership, contract or other means. A copy of all current contracts or agreements between the owner or operator and a discharge cleanup organization for emergency response service shall be maintained at the facility or with the facility's registered agent, as appropriate, and shall be available to the Department for review upon request;

6. A list of the trained personnel who are available to operate such equipment and a brief description of their qualifications, and whether personnel are employed at the facility or by a discharge cleanup organization. In lieu of supplying a list of names, the owner or operator may supply a list of job titles of employees who will be assigned to operate containment and removal equipment, and a statement of the minimum qualifications that will be required of each employee so assigned;

7. A deployment plan for personnel and equipment that includes:

i. On-site response measures;

ii. Identification of and protection and mitigation measures for off-site residential, environmentally sensitive, or other areas prioritized based on use, seasonal sensitivity, or other relevant factors. The mapping required by N.J.A.C. 7:1E-4.2(b)5 and 6 may serve as the identification;

iii. Provisions for an environmental assessment of the impact of any discharge;
and

iv. A certification pursuant to N.J.A.C. 7:1E-4.11, by a marine biologist or aquatic biologist or ecologist or freshwater equivalent and ornithologist acceptable to the Department;

8. Procedures for determining the recycling or disposal options for hazardous substances or contaminated soil, debris, and so forth, gathered during cleanup and removal operations;

9. A copy of a current agreement with the local emergency planning committee or committees that coordinates the emergency responses of the parties to the agreement; and

10. A copy of all financial responsibility documents required pursuant to N.J.A.C. 7:1E-4.4 in accordance with N.J.A.C. 7:1E-4.4(e) or Appendix B.

(b) Each major facility shall have available to it, by ownership or by arrangement with a discharge cleanup organization, adequate equipment and personnel to clean up any discharge that occurs at the facility.

7:1E-4.4 Financial responsibility

(a) The owner or operator of a major facility shall demonstrate financial responsibility for cleanup and removal activities, and for the removal of any abandoned structure owned or operated, as the case may be, by the owner or operator.

(b) The owner or operator of a major facility shall demonstrate financial responsibility in the minimum amount of \$1 million per occurrence and \$2 million annual aggregate; provided, however, that if the owner or operator establishes to the satisfaction of the Department that a lesser amount will be sufficient to protect the environment and public health, safety and welfare, the Department may accept

evidence of financial responsibility in such lesser amount. In determining the sufficiency of the amount of financial responsibility, the Department may consider factors including, without limitation, the nature and quantity of the hazardous substances which may be present at the facility, and the proximity and nature of environmentally sensitive areas located near the facility.

(c) The required per occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

(d) Financial responsibility may be established by any one, or by any combination, of the following mechanisms:

1. Financial test of self-insurance;
2. Guarantee;
3. Insurance or risk retention group coverage;
4. Surety bond; or
5. Letter of credit.

(e) The owner or operator of any major facility which demonstrates financial responsibility pursuant to the requirements of the Federal Oil Pollution Act of 1990, P.L. 101-380, shall be deemed to have demonstrated financial responsibility in accordance with this chapter and the Act.

(f) An owner or operator may use self-insurance in combination with a guarantee only if, for the purposes of meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

(g) To pass the financial test of self-insurance, the owner or operator or guarantor must meet the criteria of (g)1, 2, 3 or 4 below based on the year-end financial statements of the latest completed fiscal year and maintain onsite a letter signed by the chief financial officer worded as specified in Appendix B, incorporated herein by reference. This letter shall be updated within 120 days of the close of each financial reporting year.

1. The owner or operator or guarantor must have a tangible net worth of at least \$10 million, and the owner or operator or guarantor must:

i. Have a tangible net worth of at least 10 times the required aggregate amount in (b) above plus any other liability coverage for which the owner or operator is using the test to demonstrate financial responsibility to the State or EPA;

ii. Either file financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A; and

iii. Have year-end financial statements which do not include an adverse auditor's

opinion, a disclaimer of opinion, or a "going concern" qualification;

2. The owner or operator or guarantor must have a bond rating of AAA, AA, A or BBB from Standard and Poor's, or Aaa, Aa, A or Baa from Moody's, or net working capital of at least six times the required amount, and the owner or operator, or the guarantor, must have:

i. A tangible net worth of at least six times the applicable aggregate amount in (b) above;

ii. U.S. assets that are at least 90 percent of total assets or at least six times the required aggregate amount; and

iii. Fiscal year-end financial statements filed with U.S. Securities and Exchange Commission, Energy Information Administration, or Rural Electrification Administration, or examined by a certified public accountant accompanied by the accountant's report of the examination;

3. If the owner or operator is a local government, said government must have a bond rating of AAA, AA, A or BBB from Standard and Poor's, or Aaa, Aa, A or Baa from Moody's on outstanding issues. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Standard and Poor's and Moody's, the lowest rating must be used to determine eligibility, and a copy of the bond rating published within the last 12 months shall be maintained. The local government shall also:

i. If a general purpose local government, have a currently outstanding issue or issues of general obligation bonds of \$1 million or more, excluding refunded obligations. Bonds that are backed by credit enhancement other than municipal bond insurance shall not be considered in determining the amount of applicable bonds outstanding; and

ii. If other than a general purpose local government, have a currently outstanding issue or issues of revenue bonds of \$1 million or more, excluding refunded issues. Bonds that are backed by credit enhancement shall not be considered in determining the amount of applicable bonds outstanding; or

4. If the owner or operator is a local government, said government must have the ability and authority to assess and levy taxes or to freely establish fees and charges. The local government's year-end financial statements, if independently audited, shall not include an adverse auditor's opinion or a disclaimer of opinion. The local government shall not have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade. The following information shall be available, as shown in the year-end financial statements for the latest completed fiscal year:

i. Total revenues, consisting of the sum of general fund operating and non-operating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales, restricted and

unrestricted intergovernmental revenues, and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt;

ii. Total expenditures, consisting of the sum of fund operating and non-operating expenditures, including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under direct control of the local government using the financial test (interfund transfers);

iii. Local revenues, consisting of total revenues as outlined in i above minus the sum of all transfers from other governmental entities, including all monies received from Federal, State or local government sources;

iv. Debt service, consisting of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations, including interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest bearing warrants, but excluding payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments;

v. Total funds, consisting of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. It includes Federal securities, Federal agency securities, State and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets; and

vi. Population, consisting of the number of people in the area served by the local government.

(h) If an owner or operator or guarantor using the financial test of self-insurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

(i) The Department may require reports of financial condition at any time from the owner or

operator, or guarantor. If the Department finds, on the basis of such reports or other information, that the owner or operator, or guarantor, no longer meets the financial test

requirements of (g) above, the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.

(j) If the owner or operator fails to obtain alternate coverage within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the Department that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Department of such failure within 10 days.

(k) To demonstrate financial responsibility through a guarantee:

1. Within 120 days of the close of each financial reporting year, the guarantor must demonstrate that it meets the financial test criteria set forth in (g) above by completing the letter from the chief financial officer as specified in Appendix B and must deliver the letter to the owner or operator and the Department. If the guarantor fails to meet the requirements of (g) above, within 120 days of the end of the financial reporting year the guarantor will send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and the Department. If the Department notifies the guarantor that he or she no longer meets the requirements of (g) above, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Department. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification or 120 days after the date the Department receives the notification, whichever is later, as evidenced by the return receipt. The owner or operator must obtain alternate coverage within 30 days; and

2. The guarantee must be worded as specified in Appendix B, and a copy of the guarantee maintained at the facility at all times.

(l) To demonstrate financial responsibility through liability insurance:

1. Such insurance must be obtained from a qualified insurer or risk retention group. It may be in the form of a separate insurance policy or an endorsement to an existing policy;

2. An existing insurance policy must be amended by an endorsement worded as specified in Appendix B and a separate insurance policy must be evidenced by a certificate of insurance worded as specified in Appendix B. A copy of this endorsement or certificate must be maintained at the facility at all times;

3. Cancellation or any other termination of the liability insurance by the insurer or group, except for nonpayment of premium or material misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after the date on which the insured receives the written notice or 60 days after the date on which the Department receives the written notice, whichever is later. Cancellation for nonpayment of premium or material misrepresentation by the insured will be effective only upon written notice and only after the expiration of a minimum of 10 days after the date on which the insured receives the written

notice or 10 days after the date on which the Department receives the written notice, whichever is later; and

4. Within 60 days of receipt of a notice of cancellation or other termination, the owner or operator shall provide alternative financial assurance as specified in this section.

(m) To demonstrate financial responsibility through a surety bond:

1. The surety company issuing the bond must be among those listed as acceptable sureties on Federal bonds in the latest Circular 570 of the U.S. Department of the Treasury;

2. The surety bond must be worded as specified in Appendix B, and a copy of the surety bond maintained at the facility at all times;

3. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate sums;

4. The owner or operator who uses a surety bond to meet the requirements of (a) above must establish a standby trust fund when the surety bond is acquired. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or New Jersey agency. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the Department;

5. The surety(ies) may cancel the bond by sending written notice of cancellation by certified mail to the principal and the Department, provided, however, that the cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the principal or the date of receipt of the notice of cancellation by the Department, whichever is later, as evidenced by the return receipt; and

6. Within 60 days of receipt of a notice of cancellation or other termination, the owner or operator shall provide alternative financial assurance as specified in this section.

(n) To demonstrate financial responsibility through a letter of credit:

1. The issuing agency must be an entity that has the authority to issue letters of credit in the State and whose letter-of-credit operations are regulated and examined by a State agency;

2. The letter of credit must be worded as specified in Appendix B, and a copy of the letter of credit maintained at the facility at all times;

3. The owner or operator who uses a letter of credit to meet the requirements of (a)

above must establish a standby trust fund when the letter of credit is acquired. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or New Jersey agency. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Department will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Department;

4. The letter of credit must be irrevocable with a term specified by the issuing institution, and must provide that credit be automatically renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator and the Department by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator receives the notice or on the date when the Department receives the notice, whichever is later, as evidenced by the return receipt; and

5. Within 60 days of receipt of a notice of cancellation or other termination, the owner or operator shall provide alternative financial assurance as specified in this section.

(o) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code:

1. Naming an owner or operator as debtor, the owner or operator shall notify the Department by certified mail of such commencement; or

2. Naming the provider of financial assurance as debtor, the provider shall notify the owner or operator by certified mail of such commencement, and the owner or operator shall then notify the Department.

(p) An owner or operator will be deemed to be without the required demonstration of financial responsibility in the event of commencement of bankruptcy or other incapacity of his or her provider of financial assurance. Within 30 days after receiving notice of such an event, the owner or operator shall submit to the Department an alternate demonstration of financial responsibility.

7:1E-4.5 Preparation and submission of plans

(a) The owner or operator of a major facility shall prepare a DPCC plan and a DCR plan in accordance with N.J.A.C. 7:1E-4.2 and 4.3. The DPCC and DCR plans shall be prepared and submitted as a single document.

(b) The owner or operator of an existing major facility shall submit a DPCC plan and a DCR plan, certified pursuant to N.J.A.C. 7:1E-4.11, to the Department at the address in (h) below. Such plans shall be submitted no later than the following dates:

1. By February 1, 1992, all facilities with a storage capacity for hazardous substances

of all kinds of at least 300,000 gallons, but less than one million gallons;

2. By August 1, 1992, all facilities with a storage capacity for hazardous substances of all kinds of at least one million gallons, but less than four million gallons;

3. By February 1, 1993, all facilities with a storage capacity for hazardous substances of all kinds of four million gallons or greater;

4. By August 1, 1993, all facilities with a storage capacity for hazardous substances other than petroleum or petroleum products of at least 80,000 gallons, but less than 200,000 gallons, or for hazardous substance of all kinds of at least 200,000 gallons, but less than 300,000 gallons;

5. By February 1, 1994, all facilities with a storage capacity for hazardous substances other than petroleum or petroleum products of at least 40,000 gallons, but less than 80,000 gallons; and

6. By August 1, 1994, all facilities with a storage capacity for hazardous substances other than petroleum and petroleum products of at least 20,000 gallons, but less than 40,000 gallons.

(c) If a facility becomes a major facility because of the addition of a substance to the list of hazardous substances in Appendix A, the owner or operator shall submit a DPCC and DCR plan, certified pursuant to N.J.A.C. 7:1E-4.11, to the Department at the address in (h) below, no more than 180 days from the effective date of the addition to Appendix A.

(d) The owner or operator of a new major facility shall submit a DPCC plan and a DCR plan, certified pursuant to N.J.A.C. 7:1E-4.11, to the Department at the address in (h) below at least 180 days prior to the anticipated operational date of the facility, and shall implement the approved plans prior to operating the facility.

(e) If plans call for facilities, procedures, methods or equipment not yet fully operational, these items shall be listed separately and a schedule for installation and operational status shall be provided.

(f) Within 60 calendar days of receipt of a DPCC and a DCR plan, the Department shall notify the owner or operator in writing as to whether all information required by (a) above to begin technical review of the plans has been submitted. A list of additional information required will be included if the plans are deemed incomplete.

(g) Unless time is extended by the Department, such additional information as outlined in this subchapter as the Department may require shall be submitted within 30 days of receipt of the Department's request. If additional information requested by the Department is not submitted within the 30-day period, the Department may deny approval of the plan without prejudice to resubmission.

(h) One copy of a DPCC or DCR plan, which must include an original certification pursuant to N.J.A.C. 7:1E-4.11, shall be submitted to the Department for approval. Within 30 days of receipt of

approval pursuant to N.J.A.C. 7:1E-4.6, a second copy of the approved DPCC or DCR plan shall be submitted to the Department. Copies shall be sent to:

Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
P.O. Box 424
Trenton, New Jersey 08625-0424
Attention: Plan Submittal

7:1E-4.6 Approval and conditional approval of plans

(a) The Department shall act to approve or deny approval of a complete submission of a DPCC or DCR plan, pursuant to N.J.A.C. 7:1E-4.5, within 180 days of receipt, or no later than the date on which the new major facility is issued treatment works approvals pursuant to N.J.A.C. 7:14A-22 which are required as conditions precedent to lawful operation of the facility, whichever is longer.

(b) If the Department finds a plan to be incomplete, the owner or operator shall have 30 days within which to submit information to make the plan complete, unless the Department extends the time for good cause shown.

(c) The Department may conditionally approve a plan if the maps required pursuant to N.J.A.C. 7:1E-4.2(b)5 or 6 are incomplete or are not in the format prescribed by N.J.A.C. 7:1E-4.10. The Department shall grant such conditional approval if the Department determines that:

1. The plan otherwise satisfies all of the requirements of this subchapter; and
2. The owner or operator is making a good faith effort to provide complete, acceptable maps.

(d) The conditional approval under (c) above shall set forth a date on which the conditional approval will expire unless the owner or operator has provided maps which satisfy the requirements of N.J.A.C. 7:1E-4.10.

(e) The owner or operator shall demonstrate financial responsibility pursuant to N.J.A.C. 7:1E-4.4 by the time the Department acts to deny or approve a DPCC or DCR plan pursuant to (a) above. If the owner or operator demonstrates to the satisfaction of the Department that none of the methods of financial responsibility set forth in N.J.A.C. 7:1E-4.4 is practicable to him or her, and that a good faith effort has been made to secure financial responsibility in the full aggregate amount, the Department shall:

1. Conditionally approve the plan; or
2. Establish an alternate minimum amount of financial responsibility pursuant to N.J.A.C. 7:1E-4.4(b).

(f) A conditional approval under (e) above shall set forth a date on which the conditional approval shall expire unless the owner or operator has demonstrated financial responsibility in compliance with the requirements of N.J.A.C. 7:1E-4.4.

(g) Implementation of the DPCC and DCR plans shall begin immediately upon receipt of the Department's approval.

(h) The Department may inspect major facilities prior to approving DPCC or DCR plans and at reasonable intervals thereafter in order to ascertain compliance with the plans.

(i) The major facility shall keep a copy of the approved or conditionally approved plan onsite at all times.

7:1E-4.7 Denial or revocation of approval of DPCC or DCR plans or amendments

(a) The Department shall state in writing its reasons for denying or revoking approval of any DPCC or DCR plans or amendments thereto.

(b) The Department may revoke its approval of a DPCC or DCR plan if the owner or operator fails to comply with an approved schedule for bringing the facility's plan into compliance with the requirements of these rules, or submits to the Department false or willfully misleading information.

(c) If the Department denies or revokes approval of a plan, the owner or operator shall have 30 days within which to submit an acceptable plan.

(d) The owner or operator of a major facility who is aggrieved by any decision of the Department to deny or revoke approval of a DPCC or DCR plan or amendment thereto has

the right to a hearing before the Department, pursuant to the procedure outlined in N.J.A.C. 7:1E-6.

7:1E-4.8 Amendment of plans by owners or operators

(a) Written notice of proposed new construction or installation, substantial modification or replacement of any aboveground storage tank, other aboveground enclosed storage space, any appurtenant structures, or leak detection or other monitoring, prevention, or safety systems or devices shall be provided to the Department at the address in N.J.A.C. 7:1E-4.5(h) at least 60 days prior to the commencement of construction, installation or modification. This provision does not apply to construction, installation or modification contained in a schedule for upgrading in an approved DPCC plan.

(b) Within 30 days of any change except those delineated in (e) below, the owner or operator of a major facility having an approved DPCC or DCR plan shall report to the Department at the

address in N.J.A.C. 7:1E-4.5(h) any change in facility design, construction, operation or maintenance which will materially affect the facility's potential for discharges of hazardous substances or the substance of existing plans. The owner or operator shall amend the DPCC or DCR plan to reflect such changes, and shall certify the amendments pursuant to N.J.A.C. 7:1E-4.11, prior to submission to the Department for approval.

(c) The Department shall act to approve or deny approval of administratively complete proposed amendments within 60 days.

(d) Amendments to DPCC or DCR plans shall be implemented promptly upon approval by the Department.

(e) Changes to the following information shall be reported to the Department at the address in N.J.A.C. 7:1E-4.5(h) within 30 days, but shall not be considered plan amendments subject to the certification and approval requirements of this section:

1. Name and mailing address of the facility, if the change is not the result of a change of ownership;
2. Facility and personnel telephone numbers;
3. Name and business address of the owner's or operator's registered agent;
4. Employee names that are included in the DPCC or DCR plan; and
5. New or revised financial responsibility documents.

7:1E-4.9 Plan renewals

(a) At least once every three years following approval or conditional approval of the DPCC and DCR plans, the owner or operator shall renew the DPCC and DCR plans.

(b) One copy of the renewal shall be submitted to the Department at the address in N.J.A.C. 7:1E-4.5(h) at least 180 days prior to the expiration date of the DPCC and DCR plans. It shall consist of revised plans or a certification that the existing plans on file with the Department are current. A revised plan may be required at the time of renewal so as to incorporate into the plan all amendments adopted since the approval, conditional approval, or last renewal. Within 30 days of receipt of approval pursuant to N.J.A.C. 7:1E-4.6, a second copy of the approved renewal shall be submitted to the Department.

(c) Any change in an approved DPCC plan or DCR plan necessitated by amendments to this chapter shall be incorporated into the plan when the plan is renewed.

(d) General site plans and drainage and land use maps shall be revised to meet the digital standards contained in N.J.A.C. 7:1E-4.10 in accordance with the schedule set forth below:

1. Effective with renewal submittals required after November 15, 2000, all general site plans shall meet the standards in N.J.A.C. 7:1E-4.10.

2. Effective with renewal submittals required after January 1, 2003, all drainage and land use maps shall meet the standards contained in N.J.A.C. 7:1E-4.10.

(e) Renewals shall be accompanied by a list of discharges that have occurred at the facility since the plan approval, conditional approval, or renewal, whether those discharges were immediately reported to the Department pursuant to N.J.A.C. 7:1E-5.3 or not, consisting of the substance(s) discharged, the quantity(ies) discharged, the location(s) of the discharge(s) and the case number(s) for those discharges that were reported.

(f) All renewals shall be certified pursuant to N.J.A.C. 7:1E-4.11.

(g) Any DPCC or DCR plan which is not renewed within three years of the date of approval, conditional approval, or last renewal, shall be considered expired.

7:1E-4.10 Mapping Criteria

(a) General site plans, required pursuant to N.J.A.C. 7:1E-4.2(b)4, shall be:

1. Drawn to a scale in the range of one inch equals 30 to one inch equals 200 feet, such that it is sufficient to delineate all items to be mapped and is appropriate for the size of the facility; and

2. Certified by a licensed land surveyor in accordance with N.J.S.A. 45:8-27, *et seq.*, and the regulations at N.J.A.C. 13:40.

(b) Drainage and land use maps, required pursuant to N.J.A.C. 7:1E-4.2(b)5, shall:

1. Employ current commercially available mylar orthophoto basemaps (quarterquads) or other comparable current basemaps at a scale equal to or larger than 1:12,000, such as 1:9,600;

2. Include the land area within 1,000 feet from the major facility's boundary. This boundary includes all lands owned or used by the owner or operator at a given location. The following categories of land use shall be included:

- i. Residential;
- ii. Transportation/communication/utilities;
- iii. Industrial and commercial complexes;
- iv. Industrial;

- v. Recreational land and parks;
- vi. Schools;
- vii. Hospitals and nursing care facilities;
- viii. Other urban lands not specified in (b)1i through vii above;
- ix. River channels;
- x. Lakes and ponds;
- xi. Reservoirs;
- xii. Bays and estuaries;
- xiii. Cranberry bogs;
- xiv. Coastal wetlands;
- xv. Interior wetlands;
- xvi. Agricultural land;
- xvii. Beaches;
- xviii. Extractive mining;
- xix. Other barren or altered lands;
- xx. Deciduous forest;
- xxi. Coniferous forest;
- xxii. Mixed forest; and
- xxiii. Brushland and shrubland;

3. Locate and label all arterial and collector sewers, storm sewers, catchment or containment systems or basins, diversion systems, and watercourses into which surface water run-off from the facility drains; and

4. Locate and label all water supply wells and wellhead protection areas which have been delineated by the Department within 1,000 feet from the major facility's boundary, and monitoring wells owned or operated by the owner or operator at the facility.

(c) In addition to (a) and (b) above, general site plans, and drainage and land use maps, shall meet:

- 1. The standards contained in N.J.A.C. 7:1D, Appendix A; or
- 2. All of the following:
 - i. Be prepared in a digital environment that is compatible with the Department's Geographic Information System. Compatible digital formats are delineated in N.J.A.C. 7:1D, Appendix A;
 - ii. Contain at least four widely spaced reference points (tics) for which the geographic coordinates are known in New Jersey State Plane feet (north American Datum 1983); and
 - iii. Contain a legend block stating the name and affiliation of the preparer of the

map, the scale or scales employed, and the sources of the data used.

(d) Topographical maps showing environmentally sensitive areas, required pursuant to N.J.A.C. 7:1E-4.2(b)6, shall:

1. Employ current commercially available mylar orthophot basemaps (quarterquads) or other comparable current basemaps at a scale equal to or larger than 1:12,000, such as 1:9,6000;
2. Make all delineations on stable base mylar overlays registered to the basemaps, if required for clarity;
3. Not be so crowded as to obscure the clarity of the mapped information;
4. Have delineations made with a standard drafting or technical pen producing a line width of 0.01 inches, provided, however, that a greater line width of up to 0.05 inches may be used when necessary for emphasis. In all cases, the drafted lines and points shall bisect the feature as seen on the basemap and shall be accurate to within 50 feet of its location on the ground;
5. Accurately transfer mapped data from other sources to the basemaps;
6. Contain a legend block stating the name and affiliation of the preparer of the map, the scale or scales employed, and the sources of the data used;
7. Cover that area in which the major facility is located which is downgradient or topographically lower than the highest land point within the major facility and which could be affected by a discharge as delineated in (d)8 below;
8. Extend to the maximum area of potential impact, taking into account the sizes of the tanks, containers, or vessel compartments utilized by the facility, the loss of secondary containment, consideration of containment measures in addition to secondary containment, the dispersiveness of the hazardous substance, temperature extremes, average rainfall and stream flows, tidal cycles, prevailing winds, and potential threat to the environment. This area shall be the lesser of the following:
 - i. The distance and path an uncontrolled discharge would travel in 48 hours, including all floodprone areas around any surface water or wetlands features;
 - ii. The distance downstream from the facility at which the concentration of the hazardous substance would fall below EPA's Quality Criteria for Water issued by EPA's Office of Water Regulations and Standards, including all floodprone areas around any surface water or wetlands features; or
 - iii. Fifteen miles from the facility boundary, downgradient along the path a discharge would follow, including all floodprone areas around any surface water or wetland features;

and

9. Include, at a minimum, the following types of environmentally sensitive areas:

i. Environmentally sensitive areas for which information concerning the existence and location of the area, sufficient to allow for the location of the area on the topographical map, is available from any of the following:

(1) The Department;

(2) Other government agencies and published sources listed by the Department, which lists are available from the Department upon request; or

(3) A review and interpretation of the photo basemap;

ii. Without limiting the generality of the foregoing, the Department has determined that information from the sources listed in (d)9i(1), (2) and (3) above is available for wetlands and wetland transition areas; bay island and barrier island corridors; dunes; and areas designated as wild, scenic, recreational or developed recreational rivers; and

iii. The environmentally sensitive areas listed in (d)9iii(1) through (4) below:

(1) Of the surface waters listed in N.J.A.C. 7:1E-1.8(a)1, large rivers, medium rivers, streams, creeks, ponds, lakes and canals;

(2) Of the sources of water supply listed in N.J.A.C. 7:1E-1.8(a)2, intakes and wells;

(3) Beaches, as listed in N.J.A.C. 7:1E-1.8(a)4;

(4) Of the breeding areas and migratory stopover areas listed in N.J.A.C. 7:1E-1.8(a)7 and 8, those which are known to the ornithologist who certifies the DCR plan under N.J.A.C. 7:1E-4.11(f).

(e) All maps required by N.J.A.C. 7:1E-4.2(b)4 and 5 shall be submitted in digital and paper copy form. The digital and one paper copy shall accompany the initial plan submission for approval.

(f) All maps required by N.J.A.C. 7:1E-4.2(b)6 shall be submitted in paper or mylar form. One paper or mylar copy shall accompany the initial plan submission for approval. The paper or mylar copy may be accompanied by the submission of the mapped information in digital form, at the option of the person required to submit the map.

(g) An owner or operator may apply for an exemption from compliance with the mapping

criteria set forth above.

1. The application shall be in writing and shall contain the following:
 - i. A copy of a written estimate of the cost of preparing the required maps in accordance with the criteria set forth in this section; and
 - ii. An affidavit, signed and sworn to by the person required to provide certifications pursuant to N.J.A.C. 7:1E-4.11(c), stating that the owner or operator is a small business and that incurring the cost of obtaining maps in compliance with this section would substantially impair the owner or operator's ability to continue as a going concern.
2. The owner or operator shall submit such certified financial statements as the Department requests.
3. The Department shall grant the exemption if it determines that the cost of obtaining maps in compliance with this section would be greater than 25 percent of the owner or operator's gross proceeds or retained earnings, as demonstrated by the financial statements submitted pursuant to (g)2 above.
4. The grant of the exemption shall set forth other mapping criteria for general site plans and may set forth other mapping criteria for drainage and land use maps, which the Department determines will satisfactorily serve the purposes of this subchapter. One such set of criteria for general site plans includes the scanning of the existing general site plan to produce a digital image for submission to the Department along with the facility's coordinate centroid in New Jersey State Plane feet (North American Datum 1983).

7:1E-4.11 Certifications

(a) Any person who submits summary test results, a plan, plan amendment, plan renewal, or confirmation report to the Department shall include, as an integral part of the summary test results, plan, plan amendment, plan renewal, or confirmation report, the following certification, signed by the highest ranking individual with overall responsibility for the information contained in the certified documents:

"I certify under penalty of law that the information provided in this document is, to the best of my knowledge, true, accurate and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

(b) In addition to the certification in (a) above, any person who submits a plan, plan amendment, plan renewal or transmission pipeline registration to the Department shall include, as an integral part of the plan, plan amendment, plan renewal or transmission pipeline registration, the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this plan and all attached documents and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fine or imprisonment or both, for submitting false, inaccurate or incomplete information."

(c) The additional certification in (b) above shall be signed by the ranking official, as follows:

1. For a corporation, a principal executive officer of at least the level of vice president;
2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
3. For a municipality, the mayor or other official authorized by the local governing body to bind the municipality;
4. For a county, the county executive or other official authorized by the board of chosen freeholders to bind the county;
5. For the State, the agency head or person designated by the agency head; or
6. For any other public agency, a principal executive officer or other official authorized by the public agency's governing body to bind the public agency.

(d) Notwithstanding the provisions of (b) above, the certification contained in (a) above shall be the only certification required if the individual required in (a) above to sign the certification is the same individual required in (c) above to sign the additional certification.

(e) Any person who submits a DPCC plan, plan amendment or plan renewal shall include a certification from a professional engineer licensed pursuant to N.J.S.A. 45:8-27 *et seq.* that the plan complies with all applicable Departmental requirements and has been prepared in accordance with sound engineering practices.

(e) Any person submitting a DCR plan containing a deployment plan, or submitting an amendment or renewal to the deployment plan, shall include, as an integral part of the plan, plan amendment or plan renewal, a certification, signed by a marine biologist or aquatic biologist or ecologist or freshwater equivalent and an ornithologist stating that the deployment plan identifies those environmentally sensitive areas that could be affected by a discharge from this facility and the seasonal sensitivity of those areas, provides for protection from, and mitigation of, any potentially adverse impact on the identified areas, and for an environmental assessment in the event of a discharge.